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February 1, 2005

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**TO:** Ms. Daniela Jones  
United States Patent and Trademark Office

**FAX NUMBER:** (703) 872-9306

**FROM:** GUY D. YALE, ESQ.

**MESSAGE:** Please see attached pages.

**NUMBER OF PAGES TRANSMITTED (including this cover page)** 47

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PLEASE CONTACT ALIX, YALE & RISTAS, LLP.**

**CONFIRMATION COPY TO FOLLOW** ☐ YES ☒ NO

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Clifford P. Kelly  
James E. Piotrowski  
Thomas J. Menard  
Benjamin Y. Agress  
Thomas A. Hatfield  
Diane F. Covello

**Re: United States RCE Patent Application**  
**Corresponding to United States Patent Application No. 08/923,288**  
**Title: Deck Screws Suitable for Use with Composite Lumber**  
**Inventor(s): Hubert T. McGovern, et al**  
**Filing Date: August 6, 2001**  
**Our Ref: OMG/129/US**

OF COUNSEL  
James E. Alix

Richard H. Berneike  
(1932-2004)

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Ser No: 09/423,285 Docket: OMG/129/US Date: DEC 20 2004  
Title/Mark: Deck Screws Suitable for Use with...  
Applicant: Hubert I McGovern et al  
TO: The Honorable Commissioner of Patents and Trademarks

Please acknowledge receipt of the items checked below by stamping hereon the filing date (and application number, if applicable).

<input type="checkbox"/> New patent application: <input type="checkbox"/> Utility <input type="checkbox"/> Design	<input type="checkbox"/> Missing parts of application:
<input type="checkbox"/> Declaration and Power of Attorney <input type="checkbox"/> Unsigned	<input type="checkbox"/> Missing Parts Fee: \$
<input type="checkbox"/> pages of specification include <input type="checkbox"/> independent and <input type="checkbox"/> dependent claims	<input type="checkbox"/> Informal
<input type="checkbox"/> Drawing sheets; Figs. <input type="checkbox"/> Formal	<input type="checkbox"/> Filing Fee: \$
<input type="checkbox"/> Small Entity Status Statement	<input type="checkbox"/> Assignment w/\$ Fee
<input type="checkbox"/> Copy of international application	<input type="checkbox"/> Preliminary Amendment
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<input type="checkbox"/> Copy of amdmts. to claims under PCT Article 19	<input type="checkbox"/> Ext. of Time Req. w/\$ Fee
<input type="checkbox"/> Translation of international application	<input type="checkbox"/> Issue Fee: \$
<input type="checkbox"/> Claim of Priority and Certified Copy	<input type="checkbox"/> Int'l. Search Report <input type="checkbox"/> Refs.
<input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> PTO-1449	<input type="checkbox"/> Statement of Use
<input type="checkbox"/> Application to Register Mark <input type="checkbox"/> Drawing <input type="checkbox"/> Fee:	<input type="checkbox"/> Affidavit under \$
<input type="checkbox"/> Amendment to Application to Register Mark	
<input checked="" type="checkbox"/> Express Mail Label No. <u>EV568728745US</u>	
<input checked="" type="checkbox"/> Declaration of Commercial Success	
<input checked="" type="checkbox"/> Submission Amendment Reply Filed with PCE	

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<input checked="" type="checkbox"/> Submission Amendment Reply Filed with PCE	

EV568728745US



Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

DATE MAILED:

**NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)**

The request for continued examination (RCE) under 37 CFR 1.114 filed on 12.20.04 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☒ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date on or after June 8, 1995 will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

**A copy of this notice MUST be returned with any reply.**

Direct the reply and any questions concerning this notice to:

Samuel Jones, Technology Center 3600  
(703) 30 8-2018

FORM PTO-2051 (Rev. 7/2003)

Attorney Docket: OMG/129/US**NEW UTILITY PATENT APPLICATION TRANSMITTAL**

Mail Stop Patent Application  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing is the ☒ Utility ☐ Design patent application of:  
First named Inventor: Hubert T. McGovern, et al  
For: Deck Screws Suitable for Use with Composite Lumber

Enclosed are:

- ☐ \_\_\_\_\_ Sheets of Specification
- ☐ \_\_\_\_\_ Drawing Sheets Containing Figures \_\_\_\_\_ to \_\_\_\_\_ ☐ Formal ☐ Informal
- ☒ A Return Receipt Postcard.
- ☐ An Assignment of the Invention.
- ☐ A Certified Copy of a \_\_\_\_\_ Application.
- ☐ A Copy of Inventor's Declaration ☐ signed ☐ unsigned
- ☐ An Application Data Sheet.
- ☒ Declaration Under 37 C.F.R. §1.132 of Commercial Success and Unexpected Results
- ☒ Submission Under 37 CFR §1.114, Amendment and Reply Filed With Request for Continued Examination (RCE)

☒ If checked, this application is a:

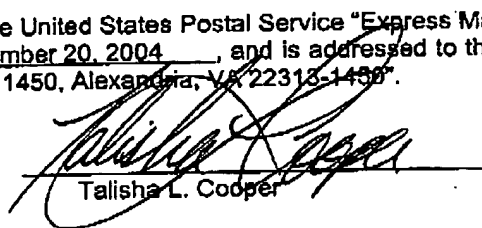
- ☐ Continuation
- ☐ Continuation-in-part
- ☐ Divisional
- ☒ Request for Continued Examination (RCE)

Application of prior United States Patent Application No. 09/923,288 previously examined by  
Jori Schiffman (Examiner) in Group/Art Unit 3679

For Continuation or Divisional Applications: The entire disclosure of the prior application, from which an oath or declaration is supplied, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

☐ If checked, a REQUEST FOR NONPUBLICATION OF APPLICATION UNDER 35 U.S.C. §122(b)(2)(B)(i) is attached:

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR 1.10 on December 20, 2004, and is addressed to the "Mail Stop Patent Application, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450".

  
Talisha L. Cooper

Attorney Docket: OMG/129/US

The filing fee has been calculated for a Utility Application as shown below:

Basic fee, Search fee and Examination fee	1	\$1000	\$1,000.00
Total claims in excess of 20	24	\$50	\$1,200.00
Independent claims in excess of 3	4	\$200	\$ 800.00
No. multiple dependent claims presented		\$360	\$ 0.00
Application size fee (for each 50 sheets or fraction thereof if the specification and drawings exceed 100 sheets of paper)		\$250	\$ 0.00
fee subtotal			<u>\$3,000.00</u>

☐ if checked, Applicant(s) is(are) a small entity and is entitled to a 50% reduction in the above fee.

filing with a non-English specification

\$130

national fee enclosed

\*\*\*.00

☒ A check in the amount of \$ 3,000.00 to cover the RCE filing fee is enclosed.

☒ It is hereby petitioned that any required extension of time be granted for filing the amendment. An extension of 3 month(s) having a fee of \$ 1,020.00 appears required.

☒ A check in the amount of \$ 1,020.00 to cover the extension fee is enclosed.

☐ Please charge my Deposit Account No. 16-2563 in the amount of \$ \_\_\_\_\_ to Cover the filing fee. A duplicate of this sheet is enclosed.

☒ The Commissioner is hereby authorized to charge any additionally required fees associated with this communication or credit any overpayment to Deposit account No. 16-2563. A duplicate copy of this sheet is enclosed.

☐ The Commissioner is hereby authorized to charge fees under 37 CFR 1.16 and 1.17 required during the pendency of this application and to credit any overpayment to Deposit Account No. 16-2563. A duplicate copy of this sheet is enclosed.

Date: December 20, 2004

Alix, Yale &amp; Ristas, LLP

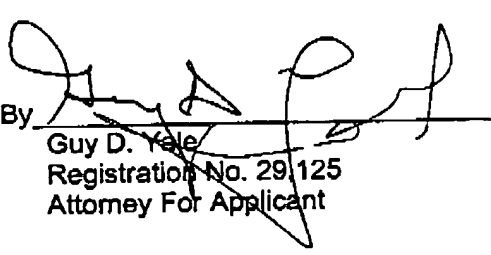
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By

  
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Registration No. 29125  
Attorney For Applicant